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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/633,450	08/07/2000	Michael A. Brundridge	16356.543 (DC-02404)	3460
27683	7590	12/10/2003		
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202				
EXAMINER LE, DIEU MINH T				
ART UNIT		PAPER NUMBER		
2184				

DATE MAILED: 12/10/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/633,450

Applicant(s)

BRUNDRIDGE ET AL.

Examiner

Dieu-Minh Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to the amendment filed August 18, 2003 in application 09/633,450.
2. Claims 1-20 are again presented for examination.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable Crouse et al. (US Patent 5,634,022 hereafter referred to as Crouse) in view of Wookey (US Patent 6,151,683).

This rejection is being applied for the same reasons set forth in the previous Office Action paper number 5, paragraphs 3-4 mailed May 16, 2003.

As per claims 1-20, see the previous office action for the teaching of Crouse and Wookey as well as the reasons and motivation for combined.

Applicant asserts that Crouse in combining with Wookey fail to teach or suggest the following:

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A. causing one of a plurality of diagnostic routines supported by a computer to be selectable for execution according to the diagnostic information, and to cause another of the diagnostic routines, not supported by the machine, to become not selectable for execution;

B. a memory including a diagnostic script, a diagnostic application including of diagnostic routines, first diagnostic information, and the diagnostic script being executable by the processor to cause the machine information to be read ...;

C. a second computer, a communication network, the first computer and second computer being configured to communicate using the communications network...

Examiner respectfully transverses Applicant's arguments as follows:

A. First, the combination of Crouse and Wookey **do explicitly teach the Applicant's invention**. Examiner would like to bring Applicant's attention to 1)Crouse's multi-media computer diagnostic system [abstract, fig. 4, col. 9, lines 53-56] comprising capability of diagnostic instruction (i.e., program

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routines) used for diagnostic system and more specifically digital signal processor on the host processor [col. 4, lines 4-30]; and host processor and resource allocation (i.e., machine information) used to diagnostic the computer system [fig. 11, col. 4, lines 3-15] and 2) Wookey's diagnostic computer system [abstract, fig. 1a-1b, col. 1, lines 15-20] comprising computer machine information (i.e., operating system information, DNS information, cache information, etc...) [fig. 7B, col. 6, line 28-32] and a diagnostic information used for diagnostic the computer system [abstract, col. 2, lines 22-41]. It is clearly shown that the combination of both Crouse and Wookey do demonstrate the detecting, diagnosing, executing the diagnostic information by the computer system (i.e., causing one of a plurality of diagnostic routines supported by a computer to be selectable for execution according to the diagnostic information). It is further obvious to an ordinary skill in the art since both Crouse and Wookey do deal with the computer system diagnostic and/or debugging, more specifically a machine information or diagnostic instruction, system configuration, etc... as claimed by Applicant.

Secondly, it is so obvious to an ordinary skill in the art to realize that the Applicant's argument which is **"to cause**

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another of the diagnostic routines, not supported by the machine, to become not selectable for execution" is very obvious to Crouse and Wookey combination. This is because by not supported an not selected for execution by the computer system then the diagnostic routine would not cause to perform any executable processes. It is clearly demonstrated by the Crouse and Wookey that their computer diagnostic system would not support or select for any diagnostic routines to do such and diagnostic operation (e.g., Crouse, col. 5, lines 47-56]. Therefore, it would have been obvious to an ordinary skill in the art intuitively understand and apply Crouse and Wookey's embedded diagnostic functions therein.

B. First, it is not true that the combination of both Crouse's multi-media computer diagnostic system and Wookey's diagnostic computer system failed to teach "a memory including a diagnostic script, a diagnostic application including of diagnostic routines, first diagnostic information, and the diagnostic script being executable by the processor to cause the machine information to be read..." as claimed by Applicant. This is because the Crouse explicitly addressed:

- the memory for diagnostic as well as execute instructions [col. 2, lines 53-55];

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- diagnostic system/programming (i.e., programming or diagnostic script) [col. 2, lines 46-50];
- diagnostic function and diagnostic tasks (i.e., diagnostic routines) [col. 3, lines 1-18];
- instruction routines, diagnostic codes used for computer system diagnosing [col. 4, lines 31-67].

In addition, Wookey also addressed:

- diagnostic test (i.e., diagnostic script) and data used for rebuilding the computer state [col. 2, lines 22-55 and col.3, lines 40-67].

Therefore, the combination of both Crouse and Wookey would clearly teach Applicant's invention, more specifically to this argument, since diagnosing of the computer system as taught by Crouse and Wookey do deal with all "a memory including a diagnostic script, a diagnostic application including of diagnostic routines, first diagnostic information, and the diagnostic script being executable by the processor to cause the machine information to be read.."

Secondly, it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention

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to implement, first, to realize the Crouse's multi-media computer diagnostic system comprising capability of diagnostic instruction (i.e., program routines) used for diagnostic system and more specifically **the memory for diagnostic as well as execute instructions, diagnostic system/programming (i.e., programming or diagnostic script), diagnostic function and diagnostic tasks (i.e., diagnostic routines), instruction routines, diagnostic codes used for computer system diagnosing** as being the a memory including a diagnostic script, a diagnostic application including of diagnostic routines, first diagnostic information, and the diagnostic script being executable by the processor to cause the machine information to be read..." as claimed by Applicant. This is because the Crouse does use the computer operating system to function and operate the entire computer applications, such as diagnostic program or debugging program to check, test, validate the computer system; second, one would modifies Crouse's multi-media computer diagnostic system to explicitly including **diagnostic test (i.e., diagnostic script) and data used for rebuilding the computer state as taught by Wookey's diagnostic computer system in** ordering to supporting the computer data diagnostic system for network availability, performance throughput, and error free processing within the computer environment therein.

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This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so to provide the connectivity among data processor, debugging or diagnostic computer program, memory, networking communication devices, displaying, peripherals of a computer system with mechanism to enhance data performance in the computer data processing, more specifically to a diagnostic computer system.

C. It is not true that the combination of both Crouse's multi-media computer diagnostic system and Wookey's diagnostic computer system failed to teach "a second computer, a communication network, the first computer and second computer being configured to communicate using the communications network..." as claimed by Applicant. This is because the Crouse explicitly addressed:

- multi-processors (i.e., multi-computers) connected via a network [fig. 11] used to performing the diagnosing including:

- diagnostic system/programming (i.e., programming or diagnostic script) [col. 2, lines 46-50];
- diagnostic function and diagnostic tasks (i.e., diagnostic routines) [col. 3, lines 1-18];

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-- instruction routines, diagnostic codes used for
computer system diagnosing [col. 4, lines 31-67].

In addition, Wookey's diagnostic computer system [abstract,
fig. 1a-1b, col. 1, lines 15-20] explicitly called out:

- computer machine information (i.e., operating system
information, DNS information, cache information, etc...)
[fig. 7B, col. 6, line 28-32];
- a diagnostic information used for diagnostic the computer
system [abstract, col. 2, lines 22-41].
- **first, second computers including memory and CPUs,
connected via network communication [fig. 1A-B, col. 3,
lines 40-67].**

Therefore, it would have been obvious to realize the
combination of Crouse and Wookey do apply and do provide the
connectivity among data processors (i.e., first and second
computers), debugging or diagnostic computer program, memory,
networking communication devices, displaying, peripherals of a
computer system with mechanism to enhance data performance in
the computer data processing and diagnosing.

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dieu-Minh Le whose telephone number is (703) 305-9408. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel, can be reached on (703)305-9713. The fax phone number for this Group is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 746-7238, (for formal communications; please mark "EXPEDITED
PROCEDURE")

Or:

**(703) 746-7240 (for informal or draft communications, please label "PROPOSED"
or "DRAFT")**

Hand-delivered responses should be brought to Crystal Park II, 2121
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).



**DIEU-MINH THAI LE
PRIMARY EXAMINER
ART UNIT 2184**